



UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

ENTERED  
05/24/2013

IN RE:  
ADAN MOLINA, PATRICIA G MOLINA §  
Debtor(s) § CASE NO: 08-20046  
§  
§ CHAPTER 13

**MEMORANDUM OPINION AND ORDER ON OBJECTION TO CLAIM**  
**(DOCKET # 148)**

Before the Court is the Debtor's Objection to Late Filed Claim No. 8-1 and Request for Release of Title filed by the Debtors Adan and Patricia Molina, *pro se* (the "Debtors").

The Debtors filed for Chapter 13 Bankruptcy relief on January 31, 2008. The Bar date for claims was June 23, 2008. The Debtors scheduled the Santander Consumer USA d/b/a Citi-financial Auto, Ltd ("Santander") claim at \$29,430.00 and valued the automobile securing the claim at \$20,000.

The Debtors' plan of reorganization was confirmed on July 26, 2010. The plan allowed Santander a secured claim of \$20,000 and a general unsecured claim of \$9,430.00.

Santander filed no claim until March 5, 2012, nearly four years after the bar date. On April 8, 2013, Santander filed a notice of transfer of the claim to National Capital Management, LLC.

In accordance with the Chapter 13 procedures in effect in the Southern District of Texas, the Chapter 13 Trustee paid adequate protection payments on the secured portion of the claim through confirmation in the amount of \$8,461.24, then discontinued payments because no claim had been filed. After the late filed claim, the Trustee resumed payments and has now disbursed a total of \$17,626.05 to Santander.

Santander's delay in filing its claim resulted in unsecured creditors receiving more than they would have had the secured claim of Santander been paid according to the Plan. Payments which would have gone to pay the Santander secured claim went instead to unsecured creditors who filed claims. As a result, unsecured creditors received more than they were entitled to under the plan.

The Chapter 13 Trustee is directed to attempt to collect the excess amounts paid to the unsecured creditors and use those funds to pay the balance of the secured Santander claim.

Santander holds a secured claim of \$20,000 plus interest at the plan rate, less payments received to date. The unsecured claim of Santander is untimely filed and therefore disallowed. If the Trustee collects sufficient funds to pay the remaining secured portion of the Santander claim, it shall be deemed paid. If the Trustee does not collect sufficient funds to pay the secured claim, the Trustee shall file a report with the Court indicating the amount paid to Santander.

It is so ORDERED.

SIGNED 05/24/2013.



Richard S. Schmidt  
United States Bankruptcy Judge